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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2008-209

14 **CYNTHIA GAIL LINDSAY**

27893 Auburn Lane

15 Moreno Valley, CA 92555

16 **Registered Nurse License No. 326433,**
Public Health Nurse Certificate No. 51832,

17 Respondent.

ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs.

24 2. **Registered Nurse License.** On or about March 31, 1981, the Board of
25 Registered Nursing ("Board") issued Registered Nurse License Number 326433 to Cynthia Gail
26 Lindsay ("Respondent"). The license will expire on January 31, 2009, unless renewed.

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1 3. **Public Health Nurse Certificate.** On or about May 11, 1994, the Board
2 issued Public Health Nurse Certificate Number 51832 to Respondent. The certificate will
3 expire on January 31, 2009, unless renewed.

4 **JURISDICTION**

5 4. Section 2750 of the Business and Professions Code ("Code") provides:

6 Every certificate holder or licensee, including licensees holding temporary
7 licenses, or licensees holding licenses placed in an inactive status, may be
8 disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus.
9 & Prof Code, § 2700 et seq.)]. As used in this article, "license" includes
10 certificate, registration, or any other authorization to engage in practice regulated
11 by this chapter. The proceedings under this article shall be conducted in
12 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of
13 Division 3 of Title 2 of the Government Code [the Administrative Procedure Act],
14 and the board shall have all the powers granted therein.

11 **STATUTORY PROVISIONS**

12 5. Code section 2761 provides, in pertinent part:

13 The board may take disciplinary action against a certified or licensed nurse
14 or deny an application for a certificate or license for any of the following:

15 (a) Unprofessional conduct, which includes, but is not limited to, the
16 following:

17 (1) Incompetence, or gross negligence in carrying out usual certified or
18 licensed nursing functions.

19 6. Code section 2762 provides, in pertinent part:

20 In addition to other acts constituting unprofessional conduct within the
21 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
22 for a person licensed under this chapter to do any of the following:

23

24 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
25 unintelligible entries in any hospital, patient, or other record pertaining to the
26 substances described in subdivision (a) of this section.

27 7. Code section 4022 provides:

28 "Dangerous drug" or "dangerous device" means any drug or device unsafe
for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words
of similar import.

1 (b) Any device that bears the statement: "Caution:
2 federal law restricts this device to sale by or on the order of a _____," "Rx
3 only," or words of similar import, the blank
4 to be filled in with the designation of the practitioner licensed
5 to use or order use of the device.

6 (c) Any other drug or device that by federal or state
7 law can be lawfully dispensed only on prescription or furnished pursuant to
8 Section 4006.

9 8. Code section 125.3 provides that the Board may request the administrative
10 law judge to direct a licentiate found to have committed a violation or violations of the licensing
11 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of
12 the case.

13 DRUGS

14 9. "Morphine" is a Schedule II controlled substance as designated in Health
15 and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug within the meaning
16 of Code section 4022.

17 REGULATORY PROVISIONS

18 10. California Code of Regulations, title 16, section 1442, provides:

19 As used in Section 2761 of the code, "gross negligence" includes an
20 extreme departure from the standard of care which, under similar circumstances,
21 would have ordinarily been exercised by a competent registered nurse. Such an
22 extreme departure means the repeated failure to provide nursing care as required
23 or failure to provide care or to exercise ordinary precaution in a single situation
24 which the nurse knew, or should have known, could have jeopardized the client's
25 health or life.

26 Background

27 11. On or about July 7, 2003, until November 16, 2005, Respondent
28 was employed as a registered nurse at Parkview Community Hospital (Parkview), located in
Riverside, California.

12. On or about November 15, 2005, Patient "A's" physician issued orders
directing the administration of 12 mg doses of Morphine Sulfate intramuscularly (IM) to the
patient every three hours for moderate pain, and 2 mg doses of Morphine Sulfate intravenously
(IV) every hour for severe pain. At approximately 0530 hours, in contravention of physician

1 orders, respondent administered a 12 mg IV dose of Morphine to Patient "A." The
2 administration of a 12 mg dose of Morphine by IV could have jeopardized the patient's health or
3 life.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Gross Negligence)

6 13. Respondent's license is subject to discipline for unprofessional
7 conduct under Code section 2761, subdivision (a)(1), in that on or about November 15, 2005,
8 while employed at Parkview, respondent committed acts of gross negligence by administering a
9 12 mg IV dose of Morphine to Patient "A" in contravention of physician orders directing that
10 12 mg doses of Morphine Sulfate were to be administered to the patient intramuscularly (IM).

11 **SECOND CAUSE FOR DISCIPLINE**

12 (False, Grossly Incorrect, Grossly Inconsistent Record Entries)

13 14. Respondent's license is subject to discipline for unprofessional conduct
14 under Code section 2762, subdivision (e), in that on or about November 15, 2005, while
15 employed at Parkview, respondent made false, grossly incorrect, or grossly inconsistent
16 entries in hospital, patient, or other records pertaining to the controlled substance Morphine.
17 Respondent charted in the medication administration record that she administered a 12 mg dose
18 of Morphine to Patient "A" intramuscularly, but she had actually administered the 12 mg dose of
19 Morphine intravenously.

20 **PRAYER**

21 **WHEREFORE**, Complainant requests that a hearing be held on the matters
22 herein alleged, and that following the hearing the Board issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 326433,
24 issued to Cynthia Gail Lindsay;


25 2. Revoking or suspending Public Health Nurse Certificate Number 51832,
26 issued to Cynthia Gail Lindsay;

27 3. Ordering Cynthia Gail Lindsay to pay the reasonable costs incurred by the
28 Board in the investigation and enforcement of this case pursuant to Code section 125.3; and,

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4. Taking such other and further action as deemed necessary and proper.

DATED: 1/11/08



RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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